

SEALED BIDDING

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SUBPART 14.2 - SOLICITATION OF BIDS

- 14.201 Preparation of invitations for bids.

(a) Supply and service contracts. For supply and service contracts, invitations for bids shall contain the following information if applicable to the acquisition involved. All items of information shall be set forth in the appropriate sections.

- 14.201-2 Part I - The schedule.

- 14.201-2(b) Section B, Supplies or services and prices.

(90) Pursuant to 17.203(d), a provision substantially similar to that at 52.214 -9001 should be used when item pricing of options involves separate firm fixed price and fixed price with economic price adjustment portions.

- 14.201-3 Part II - Contract clauses.

(90) Section I, Contract clauses. The contracting officer shall insert the clause at 52.214-9004, Subcontracting to other industrial preparedness planned producers, in solicitations and contracts whenever contracting without providing for full and open competition under the authority of FAR 6.302-3 (10 U.S.C. 2304(c)(3)).

- 14.201-5 Part IV - Representations and instructions.

- (b) Section L, Instructions, conditions, and notices to bidders.

(90) A provision substantially similar to that at 52.214 -9000, Postponement of opening of offers, shall be included in invitations for bids to advise bidders how bids will be treated in the event of an emergency postponement of opening.

- (c) Section M, Evaluation factors for award.

(90) A provision substantially as provided at 52.214 -9002, Trade Discounts, may be included in invitations for bids when appropriate. The provision advises bidders that trade discounts offered will be considered in evaluating offers for award and provides that an offered discount in excess of 2 percent will be considered as a trade or special discount, unless the offeror

states otherwise. Use of such a provision will assure that the Government does not forego the benefits of intended bids of trade discounts.

(91) A provision substantially as provided at 52.214-9003, Right to Apply F.O.B. Origin Offer, may be included in invitations for bids when appropriate. The intent of the provision is to permit the Government to award f.o.b. origin offers that otherwise could not be covered in a sealed bid acquisition. Example: Items 1 and 2 are for the same product, but different item numbers are used because of the different destinations. F.o.b. origin offers are permitted. Bidders A and B bid f.o.b. origin on item 1. No bids are received on item 2. Item 1 is awarded to Bidder A. Under present conditions, item 2 would have to be resolicited. With the provision at 52.214-9000, and provided the bidder had not specified otherwise, the Bidder B offer could be applied against item 2. Assuming Bidder B's price was reasonable, item 2 could be awarded to Bidder B and the need for a resolicitation negated.

(92) Bids for incremental quantities (i.e., 500, 1000, 1500, 2000 units) or range quantities (i.e., 500-999, 1000-1499, 1500-1999 units) may be solicited provided the invitation for bids specifies that awards will be made on that quantity and price combination which is most advantageous to the Government.

14.201-8 Price related factors.

(a)(90) [This paragraph pertains only to those contracting offices that have decided, in accordance with 15.604, to use this source inspection evaluation factor coverage.] The provision at 52.213-9001, Evaluation Factor for Source Inspection, shall be inserted in solicitations when the conditions at 13.107(90)(a) exist. The coverage at 13.106-90(a) applies regardless of the dollar value of the acquisition, except that the contracting officer shall add \$175, multiplied by the number of source inspections required, to the offeror's price.

(a)(91) [This paragraph pertains only to those contracting offices that have decided, in accordance with 15.604, to use the preaward survey (PAS) evaluation factor coverage at 15.605(90).] The provision at 52.215-9001, Evaluation Factor for Preaward Survey, shall be inserted in solicitations and exercised when a PAS is required to determine the responsibility of prospective contractors described in 15.605(90)(1)(i) through (vi).

14.203 Methods of soliciting bids.

14.203-3 Master solicitation.

(b)(90) Distribution of new or revised master solicitations is as follows:

HQ DLA (Executive Director, Procurement **Management**).....1 copy

DCMDs (ATTN: (Director, Contract Management)).....3 copies each

(ATTN: Director, Quality Assurance).....2 copies each

(ATTN: Director, Program and Technical Support).....2 copies each

DCMAS (ATTN: Chief, Contract Management).....15 copies each

(ATTN: Chief, Quality Assurance).....5 copies each

(ATTN: Chief, Program and Technical Support).....2 copies each

DPROs (ATTN: Chief Contract Management).....6 copies each

(ATTN: Chief, Quality Assurance).....2 copies each

(ATTN: Chief, Program and Technical Support).....2 copies each

Defense Finance and Accounting Service: Columbus Center.....2 copies each

(b)(91) Copies of contracts forwarded to GAO shall include a copy of the master solicitation.

14.203-90 Other distribution.

One information copy of each invitation for bids involving the production testing of items will be forwarded at time of issue to HQ DLA, ATTN: MMPON in accordance with DLAR 4125.1, Production Testing of DLA-Managed Items.

SUBPART 14.3 - SUBMISSION OF BIDS

14.302 Bid submission.

(b)(1) Telephonic communication of a telegraphic bid shall not be acceptable. A copy of the written telegram must be received by the designated office not later than the exact time set for opening of bids.

14.303 Modification or withdrawal of bids.

(a) A telegraphic modification or withdrawal of a bid received by telephone from the receiving telegraph office shall not be considered. The guidance in 14.302(b)(1) also applies to modifications and withdrawals of bids.

14.304 Late bids, late modifications of bids or late withdrawals of bids.

14.304-90 Hand-carried bids.

Suppliers shall be notified that it is a responsibility of the bidder to place the bid in the bid depository if a bid is hand-carried. Each DLA activity shall establish procedures to ensure that Government personnel do not handle, stamp, or mark the bid envelopes prior to placement of the bids in the depository by the supplier.

SUBPART 14.4 - OPENING OF BIDS AND AWARD OF CONTRACT

14.404 Rejection of bids.

14.404-1 Cancellation of invitation after opening.

(a)(1) In order to ensure that supply discipline and financial stability are not attained at the expense of sound contracting methods and the responsibility of this Agency to its suppliers, the following review system is in effect:

(i) Each partial or total cancellation of an invitation for bids after opening shall be effected only with the approval of the Head of the contracting activity, except that for DPSC, the approving authority shall be the Director, Directorate of Contracting.

(ii) Resolicitation of an item within 90 days after cancellation under subparagraph (i) above, where the cancellation was occasioned by a revision of requirements or by funding limitations, shall have the prior approval of the Head of the contracting activity.

(iii) The requirements at 14.404-1(a)(1)(i) and (ii) above do not apply to solicitations which must be canceled for lack of funds in the stock fund account caused by a reduction in sales. Chiefs of the contracting offices may establish approval levels, if they desire, which replace the HCA approval level for such cancellations.

(2) The above procedures apply only to purchases of centrally managed, DLA stock funded items managed by DLA's five supply centers. The above procedures shall not apply to the following situations:

- (i) Failure to obtain coverage.
 - (ii) The solicitation was canceled for the reasons cited in FAR 14.404 -1(c)(6) or (c)(7).
 - (iii) Acquisitions of nonstocked items.
 - (iv) Acquisitions originated by a MIPR.
 - (v) Acquisitions in which an existing contract contains an option provision more favorable to the Government than any bid received where the solicitation was issued in accordance with the provisions of FAR 17.207 and included a notice to potential bidders of the option available to the Government.
 - (vi) Acquisitions involving a solicitation which is legally deficient as a result of a statutory change.
 - (vii) Acquisitions of services.
- (c) Determinations to cancel invitations for bids made pursuant to FAR 14.404 -1 shall be in writing and shall describe the items solicited, quantities, number of bids received, prices, a discussion of the basis for canceling, and explanation of why it is a compelling reason.

14.407 Mistakes in bid.

14.407-3 Other mistakes disclosed before award.

(e) The Director, DLA, acting as head of the agency, has delegated the authority to make the determinations under FAR 14.406-3(a), (b), and (d) to the General Counsel, DLA; Deputy General

Counsel, DLA; Associate General Counsel, Procurement, DLA; and the Chief Counsels of the Defense Supply Centers, the Defense Reutilization and Marketing Service, the Defense Distribution Region East and the Defense Distribution Region West. This authority may not be redelegated. Requests to the General Counsel to make these determinations shall be forwarded through local Offices of Counsel.

14.408 Award.

14.408-1 General.

(d) It is particularly important that copies of the award document furnished for contract administration and finance purposes include detailed information as to acceptable additions or changes made by a bidder in the bid. The award document shall include the following data to the extent applicable:

(90) A list of the items or lots accepted with the quantity, unit price, and total price of each item.

(91) An indication of the extent to which award is made on the basis of f.o.b. destination or f.o.b. origin.

(92) Any discount offered by the successful bidder, whether or not such discount was considered in the evaluation of bids.

(93) When the invitation for bids authorizes bids on the basis of brand name or equal, the brand, model, part number, and any other identifying characteristics of the item to be furnished by the successful supplier.

(94) The place of manufacture of the supplies or the performance of services awarded and the name of the supplier when different from that of the contractor.

(95) The place of inspection and acceptance and the name of the activity authorized to effect inspection and acceptance on behalf of the Government.

(96) When the invitation for bids includes the requirement for minimum size of shipments or guaranteed maximum shipping weights (and dimensions, if applicable), and award is made f.o.b. origin, see 47.305(91).

(97) The time of delivery.

(98) The place of delivery.

(99) The place for the submission of invoices and payment.

(100) A statement that the award confirms a notice of award.

(101) A statement that the progress payment clause is a part of the contract.

(102) A provision for advance payments.

14.408-2 Responsible bidder - Reasonableness of price.

(90) When a sole responsive bid is received, and in other situations where the sealed bidding method may not have achieved competition sufficient for award at a fair and reasonable price, a price reasonableness determination shall be made based on a price analysis (see 15.805 -1(b)(2)) which is documented in the contract file.

14.409 Information to bidders.

14.409-1 Award of unclassified contracts.

(b) Notification to unsuccessful bidders should not be delayed pending preparation and distribution of contractual documents. In cases where a bidder is apparently low based on a comparison of bid price only, the notification should take the form of a letter including the specific reasons for the rejection of the lower bid. This is especially important where rejection results from a transportation evaluation, a negative preaward survey, or for any reason not readily apparent to the bidder. The following is an example of such a letter. This letter may be modified to fit the specific circumstances of the acquisition.

Sir/Madam:

Receipt is acknowledged of your bid in response to our Invitation for Bid No. _____. This is to inform you that award was made to:

Contractor:_____. City _____.

State:_____. Item:_____. Price:_____.

Your interest in bidding on the requirements of this Center is appreciated; however, we were unable to make the required determination that your company is "responsible" within the meaning of that term as defined in paragraph 9.101 of the Federal Acquisition Regulation. The information upon which our decision was based was contained in a preaward survey which was issued by (insert name of appropriate activity). Further details with respect to their findings will be furnished by that activity if you so request. Your name will be retained on the bidder's list to receive future solicitations.

A letter such as the above, if complete and issued promptly, should minimize further correspondence and result in improved contractor relations.

14.90 Requests for decision by the Comptroller General.

Where a decision by the Comptroller General is desired on contracting or disposal matters such as mistakes in bids, remission of liquidated damages, reformation of contracts or other contract issues, the request will be coordinated by local counsel and forwarded to the General Counsel. Each case submitted for a Comptroller General decision will be accompanied by an administrative report which shall include a summary of the matter at issue, the recommendation of the contracting office, and all documents and information deemed pertinent to the issue.